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ALA American Library Association

March 17, 1997

Mark Nadel
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: Ex Parte Presentation
CC Docket No: 96-45, Federal-State Joint Board on Universal Service

Dear Mr. Nadel

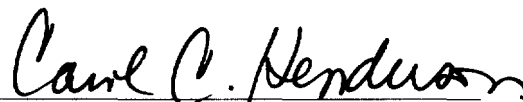
The American Library Association (ALA) respectfully submits the attached ex parte comments on the Recommended Decision adopted on November 7, 1996 by the Federal-State Joint Board on Universal Service to further clarify and elaborate on its comments and ex partes and those of others filed in this docket. Specifically, ALA wishes to address three issues in this ex parte:

- 1) The self-certification of eligibility for discounts.
- 2) Library eligibility.
- 3) Determination of the level of low income discounts for libraries.

The American Library Association, founded in 1876, is the oldest and largest library association in the world. Its concerns span all types of libraries: state, public, school, academic, and special libraries. With a membership of more than 57,000 librarians, library trustees, library educators, friends of libraries, and other interested persons from every state, ALA is the chief advocate for the people of the United States in their search for the highest quality of library and information services. ALA has been an active participant in this proceeding, filing in all five rounds of public comments during and subsequent to the Joint Board's deliberations.

Respectfully submitted,
AMERICAN LIBRARY ASSOCIATION

By:



Carol C. Henderson

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CC: Mr. William F. Caton, Acting Secretary
Federal Communications Commission

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INTRODUCTION

The American Library Association (ALA) respectfully submits the attached ex parte comments on the Recommended Decision adopted on November 7, 1996 by the Federal-State Joint Board on Universal Service to further clarify and elaborate on its comments and ex partes and those of others filed in this docket. Specifically, ALA wishes to address three issues in this ex parte:

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- 2) Library eligibility.
- 3) Determination of the level of low income discounts for libraries.

SELF-CERTIFICATION

ALA wishes to submit a modified version of the self-certification form that EdLiNC representatives submitted in its ex parte discussion with the FCC staff on February 25, 1996. (Attachment 1) ALA believes that this form provides better clarification for applicants and other interested parties on eligibility criteria for the discounts while keeping the form simple and unburdensome to applicants. Discounts on basic or core services should not require self-certification of elaborate technology plans.

In particular, paragraph 1 more explicitly lays out the eligibility requirements as stated in Section 254(h)(4) and 254(h)(5) of the Telecommunications Act of 1996 (the Act). Paragraph 2, allows for eligible institutions to self-certify the level of discount they are eligible for based on tables to be provided in the final rule on this docket and that would need to be made publicly available through the fund administrator. ALA expects that such a table would be similar to that recommended by the Joint Board in paragraph 555 of its Recommended Decision of November 7, 1996 and the one submitted by ALA in its Reply Comments of January 10, 1997.

ALA notes that **nothing in Section 254(h)(4) or 254(h)(5) of the Act requires that an institution have a plan for securing access to supporting technologies in order to be an institution eligible for discounts.** The language in Section (254)(h)(4) and 254(h)(5) specifies only that the institution be an eligible non-profit institution, and, if a library, is eligible for assistance from a State library administrative agency under the Library Services and Technology Act, or if an elementary or secondary school, has an endowment of \$50,000,000 or less and is an elementary or secondary school as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) as amended in Public Law 103-382, October 20, 1994.

Nonetheless, all the elements in paragraph 3 of the attached draft self-certification do correspond to the elements listed in paragraphs 601-604 of the Joint Board Recommended Decision, including self-certification that the eligible institution has, as stated in paragraph 601, "done their homework." Furthermore, in this revision, element 2 of paragraph 3 has been expanded to allow for the self-certification of the existence of a technology plan that may be part of a state plan, consortia, or other legal arrangement, or to allow an applicant to actually submit a copy of the plan as part of the self-certification. ALA feels that an applicant who self-certifies **to any one of the elements** in ALA's proposed draft self-certification form has met the requirements of certifying that they have "done their homework" as set forth in paragraph 601 of the Joint Board Recommended Decision.

Furthermore, ALA recommends that if the FCC does go beyond the eligibility requirements stated in Section (254)(h)(4) and 254(h)(5) and requires self-certification of the existence of a technology plan, that the FCC be very explicit in stating that such self-certification does not require the review or approval of the technology plan by the FCC, the fund administrator, or any other entity. No other entity should be involved in specifying the nature of educational or library technology plans that have been or are already being developed for other federal, state, or local programs. **Such review or approval would constitute an unwarranted intrusion into the local administration of libraries and schools.**

LIBRARY ELIGIBILITY

There are approximately 16,000 public library facilities in the U.S., 4,700 academic libraries, and approximately 10,282 special libraries excluding public, academic, armed forces, and government libraries. Section 254(h)(4) of the Telecommunications Act of 1996 states, as amended, that "No entity listed in this subsection shall be entitled to preferential rates or treatments as required by this subsection, if such entity operates as a for-profit business...or is a library not eligible for participation in State-based plans for funds under the Library Services and Technology Act (LSTA)."

LSTA is intended, among other things, to promote resource sharing among libraries in order to make more materials and information available to the public. In ALA's Comments on the Questions on Public Notice of November 18, 1996 in this docket, page 12, ALA notes that in section 212 of the Library Services and Technology Act (LSTA), PL 104-208, it is explicitly stated that the purpose of LSTA is to "promote access to learning and information resources in all types of libraries **for individuals of all ages**"; "promote library services that provide **all users access to information** through

State, regional, national and international electronic networks”; and “promote targeted library services to **people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills**” (emphasis added).

In other words, the purpose of LSTA is to maximize information access to the public. This purpose is identical to what was stated in the conference report on Section 254 of the Act: “The ability of K-12 classrooms, libraries and rural health care providers to obtain access to advanced telecommunications services is critical to ensuring that these services are available on a universal basis.”¹

LSTA provides for resource sharing among libraries so that information, that might normally only be available to certain segments of the public, is available to the entire public. For example, in ALA’s Reply Comments of May 7, 1996, we cited the example of how in Cairo, Georgia, orchard owners check weather conditions, fruit and vegetable prices, and search for new markets on the Internet by accessing a University of Georgia database, GALILEO, through their local public library.² Without this resource sharing arrangement, access to GALILEO would be restricted to the University of Georgia community.

ALA therefore recommends that, consistent with section 254(h)(4) of the Act, any library that is not operating in or as a for-profit business, and is a library or library consortium eligible for assistance from a State library administrative agency under the Library Services and Technology Act, be eligible for discounted rates. Consistent with its authority to administer LSTA, the state library agency would be responsible for verifying that any non-profit, non-public library applying for a discount was qualified for such discount as part of the state’s LSTA plan.

ALA recognizes that eligible non-profit, non-public libraries included in state plans under LSTA have less well-defined service areas than their public library counterparts. Furthermore, it may be difficult or too complex to ascertain what proportion of an eligible non-profit, non-public library’s telecommunications services is being used for LSTA purposes. **For this reason, ALA proposes that, once high cost**

¹H.R. CONF. REP. NO. 458, 104th Cong., 2d Sess. 134 (1996)

² ALA Reply Comments, May 7, 1996 at 11.

adjustments have been made³ a flat-rate 20% discount for eligible non-profit, non-public libraries be made. Eligible higher education libraries which fall into this category and which are serving particular categories of users such as Indian reservations, historically black colleges and universities, etc. that are defined in the Higher Education Act could receive an additional flat rate discount beyond 20%, say 40% or even 60%.

LOW INCOME DISCOUNTS FOR LIBRARIES

In its comments and reply comments on the Recommended Decision adopted on November 7, 1996 by the Federal-State Joint Board on Universal Service, ALA has noted that a formula based on free or reduced cost school lunch program eligibility may not be appropriate for most libraries. Libraries should have an option that appropriately reflects the relative income level of the population served by the institution, and that can be easily applied and verified. ALA also noted that the Library Services and Technology Act, the reference in the Telecommunications Act for library eligibility, makes use of a poverty factor based on data derived from the U.S. Census Bureau.

The Education and Library Networks Coalition (EdLiNC), in its comments on the Joint Board recommendations, also noted that the poverty factor included in LSTA would be less burdensome and may provide a more accurate proxy for calculating low income discounts.

For the vast majority of public library systems, service areas correspond to county, city, town, township, or other local government unit boundaries. U.S. census poverty data is easily available for areas congruent with local government units. Most counties, cities, and states have economic development agencies that already have this information at hand, as many federal, state, and other grant programs rely on this data. This is readily available public information.

The state library agency that administers the Library Services and Technology Act could easily provide or verify the poverty data for any particular public library in the state. For instance, the Library of Michigan would work with the Michigan Information Center to obtain current official maps of a library's legal service area showing the income level of each census tract or other specific geographic unit as directed by the FCC. This map could form the basis for the certification of the proper low-income level discount for each library. The Missouri State Library has Census-based poverty data for every public library easily available as a result of implementing a recent legislatively mandated equalization formula.

³ See ALA Reply Comments, January 10, 1997 at 2-3, ALA Comments, December 19, 1997 at 5-9

Therefore, ALA recommends that any public library seeking discounted rates self-certify the level of discount they are eligible for by providing ONE of the following measures for economic need:

- 1) poverty data based on the U.S. Census figures applicable to its service area, with a published or electronically available source cited, OR
- 2) poverty data for its service area as provided by the state library agency, with a published or electronically available source cited, OR
- 3) the participation rate in the national school lunch program for the school district with a comparable service area.

The low-income discount would therefore be determined based on the level of economic need, as determined by either local poverty data or local participation in the national school lunch program, matched against tables indexed to various discount rates provided by the FCC. ALA has provided data in its Reply Comments of January 10, 1997 on how such a table can be established based on poverty rates within a given service area of a public library. (Attachment 2) This ex parte also presents corrections to typographical errors made in Column E of Table 2 in the January 10, 1997 filing. This sample table was designed to match the distribution of discounts set up in the Joint Board Recommendation using school lunch program data.

Attachment 1
Draft Self Certification

The applicant(s) listed below hereby certifies that as defined in Section 254(h)(4) of the Telecommunications Act of 1996, it is an eligible non-profit institution (or combination of such), and, if a library, is eligible for assistance from a State library administrative agency under the Library Services and Technology Act, PL 104-208, or if an elementary or secondary school, has an endowment of \$50,000,000 or less and, as is stated in Section 254(h)(5), is an elementary or secondary school as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) as amended in Public Law 103-382, October 20, 1994.

The above named applicant(s) further certifies that it is eligible for a ____% discount off of the attached requested telecommunications services based on Table ____ provided by the Federal Communications Commission under Section 254 of the 1996 Telecommunications Act.

Furthermore the above named applicant(s) certifies its eligibility by having:

- 1) Submitted its request(s) for services to the federal universal service fund administrator for electronic posting.¹
- 2) Confirmed that its request(s) for services is in at least partial implementation of **one** of the following:²
 - a) the state education or state library agency technology plan or component of a state education or state library agency plan; or
 - b) a technology plan of an appropriate education, library, or regional legal entity of which the applicant is a member; or
 - c) a technology plan on file with the applicant(s) and approved by its governing body or equivalent on _____ (date), or attached as part of this self-certification.
- 3) Certified in its submitted request for services that the applicant(s) is eligible under section 254(h)(4) and 254(h)(5) of the 1996 Telecommunications Act; that such requested services will be used solely for educational purposes; that such services

¹ See Joint Board Recommended Decision, Paragraph 602

² See Joint Board Recommended Decision, Paragraph 601

will be sold, resold or transferred only for educational purposes and only for the purpose of transferring a discounted service from a consortia agent to an eligible member of the consortia; that such permitted sale, resale, or transfer shall be on a cost-recovery basis; and if the services are being purchased as part of an aggregated purchase with other entities, that a list of the identities of all co-purchasers and the portion of the services being purchased by the applicant(s) has been submitted.³

- 4) Records that it will maintain for inspection and audit by the fund administrator that support both the percentage discount requested and compliance with items 1-3 above.⁴

Signed this ____ day of _____,

By _____ as an authorized fiscal agent of [applicant(s) name]

Name,

Title

Address

Phone Number

Fax

E-mail

³ See Joint Board Recommended Decision, Paragraph 603, and EDLINC Comments of 12/17/96, II.D. Prohibition on Resale

⁴ See Joint Board Recommended Decision, Paragraph 604

Attachment 2
Sample Tables for Library Low Income Discount

ALA has taken a sample of library outlets, which may be a main or branch library facility, from the most recently available National Center for Education Statistics (NCES) data which reflects public library data for 1993. Table 1 shows the sample size and the percentage of library outlets falling inside and outside metropolitan areas.

Table 1

	Total Number	Percentage
Number of Library Outlets in Sample	500	100.00%
Library Outlets in Metropolitan Areas	239	47.80%
Library Outlets in Non-Metropolitan Areas	261	52.20%

Table 2 shows how this sample was matched against 1990 U.S. Census poverty data. Column A shows the percentage of poverty residents within a 1-mile radius of library outlet. This 1-mile radius serves as an approximation for a library outlet's service area. Column B shows the percentage of the sample in each category. The break points for Column A were specifically designed to approximate the distributions of schools in the chart referred to in the Recommended Decision in paragraph 555. Column C represents the percent discount category corresponding to each poverty range. Columns D and E represent the number of library outlets in metropolitan and non-metropolitan areas respectively, for each of these poverty ranges.

Table 2
Percentage Poverty Within 1-Mile Radius of Library Outlet

	A	B	C	D	E
	Percentage of Poverty Residents Within 1 Miles Radius of Library Outlet	Percentage of Library Outlets from Sample in Each Poverty Category	Percentage Discount Category	Percentage of Sampled Library Outlets in Metropolitan Areas in Each Poverty Category	Percentage of Sampled Library Outlet in Non-Metropolitan Areas in Each Product Category
1	0-3%	3.00%	20	7.53%	1.15%
2	3-9%	30.70%	40	37.66%	22.99%
3	9-13%	19.00%	50	17.57%	22.22%
4	13-16%	15.00%	60	8.79%	18.39%
5	16-22%	16.00%	80	10.46%	20.69%
6	22-100%	16.30%	90	17.99%	14.56%
7	Total Percent	100.00%		100.00%	100.00%

Using this or a similarly constructed table as the index, libraries would self-certify the poverty level within their service area in order to receive the corresponding discount in Column C. For example, if a library system self-certified that within its service area, 15% of its residents were poverty residents, the library system would qualify for a 60% discount. If another library system self-certified that within its service area 7% of its residents were poverty residents, that library would qualify for a 40% discount.